

# Section 4(f)

# Defined

Section 4(f), of the US Department of Transportation Act of 1966, states that the Federal Highway Administration “...may approve a transportation program or project...requiring the use of publicly owned land of a public park, recreation area, or wildlife and waterfowl refuge of national, State, or local significance, or land of an historic site of national, State, or local significance (as determined by the Federal, State, or local officials having jurisdiction over the park, area, refuge, or site) only if...there is no prudent and feasible alternative to using that land; and...the program or project includes all possible planning to minimize harm to the park, recreation area, wildlife and waterfowl refuge, or historic site resulting from the use.” (49 U.S.C. 303[c])

# STEP 1

Do you have an  
eligible 4(f)  
resource?



## 4(f) Resources



Public parks and  
recreation areas

## 4(f) Resources



Wildlife and  
waterfowl refuge

# 4(f) resources



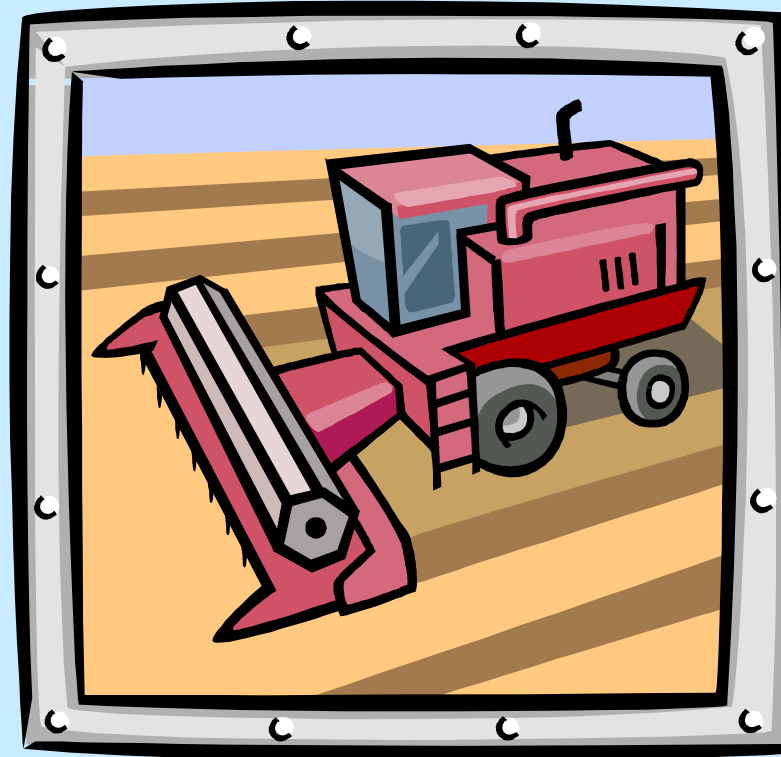
Historic sites

You Have Determined That You  
Have an Eligible 4(f) Resource



NOW WHAT????

Determine if the Transportation  
Project have a Use of the 4(f)  
Resource!





# First Use

When a 4(f) Resource Is Permanently  
Incorporated Into a Transportation Facility

# Second Use

When There Is a Temporary Occupancy  
of Land That Is Adverse in Terms of  
the Statute's Preservationist Purposes

# When is a temporary use not 4(f)?

- The land use is of short duration (defined as less than the time needed for the construction phase)
- There is no change in ownership of the land
- The transportation agency has no long term interest in the land
- There are no permanent adverse changes to the resource
- The project involves only a minor portion of the resource

# Third Use

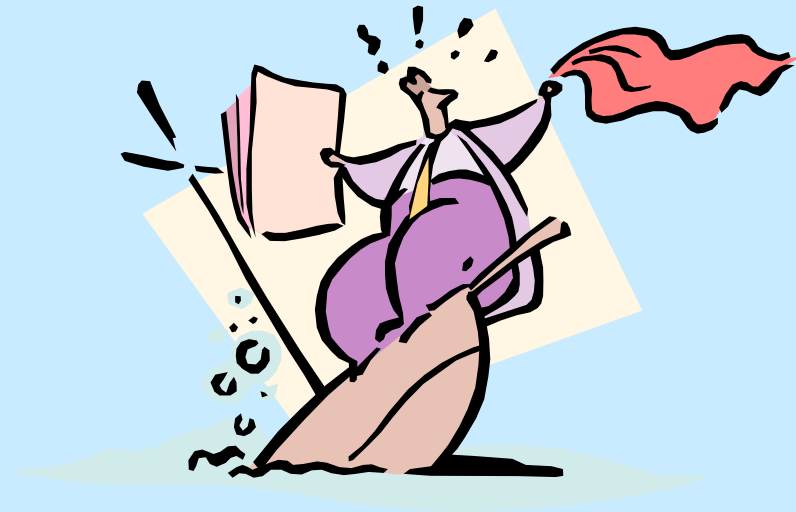
Constructive Use of the Resource

# What is not constructive use

- When there is a finding of "No adverse affect or no affect" under Section 106
- When project noise does not exceed FHWA noise thresholds
- When impacts are mitigated to a level equal or better than pre-existing
- When a change in access is minor

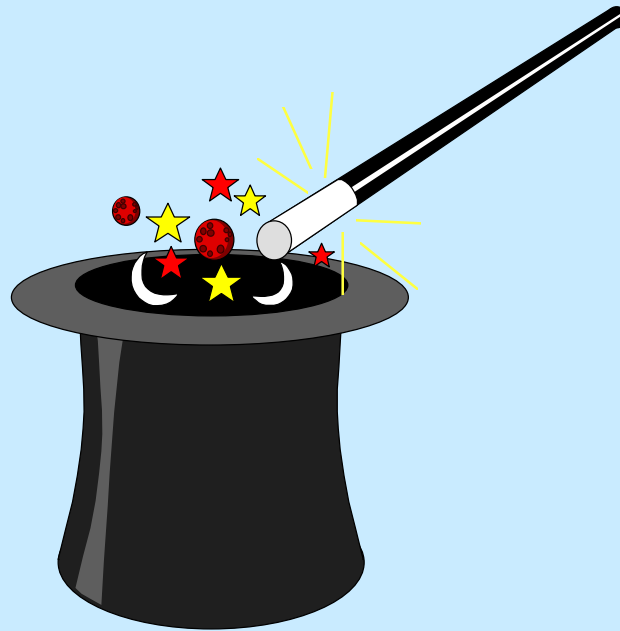
Negative declaration / Section  
4(f) Statement and determination  
for Independent Bikeways or  
Walkways

OK, you have determined that  
you will have an Affect to a 4(f)  
Resource.



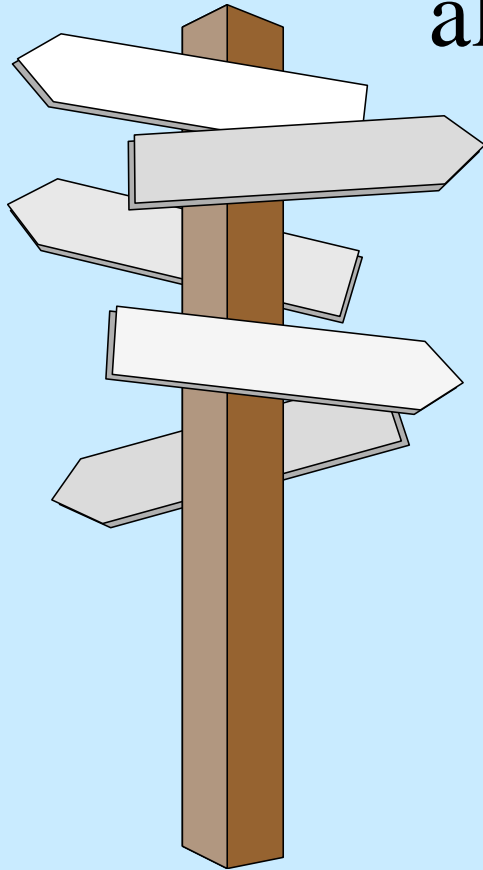
WHAT DO WE  
DO??!!

Determine if there are any  
feasible or prudent alternatives to  
the action that affects the 4(f)  
resource





You have determined that you have an eligible 4(f) property that you will affect, and there are no reasonable or prudent alternatives.



Where do we go  
from here?

Ensure all efforts to minimize harm to the 4(f) Resource have been have been employed and develop sound mitigation

# Mitigation Examples

- Replace lost habitat through revegetation
- Screen views through landscaping
- Replace lost features, such as benches, playground equipment, etc
- Replace lost land with land of equal value and utility

# Programmatic vs. non-programmatic 4(f)

- Programmatic vs non-programmatic 4(f) allows a FHWA Division to decide whether or not they have the authority to approve a 4(f) in their office or if it needs to go to Washington for approval.
- We have no regional or state programmatic agreements

# Categorical Exclusions and 4(f)

- Programmatic CE
  - 4(f) feature that will be avoided. No Use
  - No 4(f) features
- Non-programmatic CE
  - 4(f) resource in close proximity with potential constructive use
  - any determination necessary by FHWA

# Thank you

More information is available at:

<http://www.fhwa.dot.gov>

<http://www.azdot.gov/Highways/eeg/index.asp>